

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ACQIS LLC,

Plaintiff,

v.

DELL INC.; HEWLETT-PACKARD CO.;
INTERNATIONAL BUSINESS MACHINES
CORP.; NEC CORP. OF AMERICA; and
ORACLE AMERICA, INC.

Defendants.

Case No. 6:09-00148-LED
Jury Trial Demanded

UNOPPOSED REQUEST FOR JUDICIAL NOTICE

Pursuant to Federal Rule of Evidence 201, Plaintiff ACQIS LLC (“ACQIS”) respectfully requests that this Court take judicial notice that attached exhibits 1-19 are publicly available. ACQIS and IBM conducted a meet and confer regarding this request, and IBM does not oppose.

Exhibit 1 is a copy of the cover, table of contents and article “Big Blue is Out to Collar Software Scofflaws” authored by Ira Sager. This article was published in Business Week and was publicly available starting March 17, 1997.

Exhibit 2 is a copy of the cover, copyright page and pages 80-81 from “Edison in the Boardroom” (Julie L. Davis and Suzanne S. Harrison, 2001). This document was publicly available starting in 2001.

Exhibit 3 is a copy of the cover, copyright page and pages 79 and 100 from “Valuation and Pricing of Technology-Based Intellectual Property” (Richard Razgaitis, 2003). This document was publicly available starting in 2003.

Exhibit 4 is a PowerPoint presentation entitled “Intellectual Property Creation and Management for Emerging Growth Technology Companies; Patent Analysis & Financial Performance – Part 1” taken from <http://www.authorstream.com/Presentation/wnhulsey3-327261-01-patent-analysis-entertainment-ppt-powerpoint/>. This document is publicly available at the link above.

Exhibit 5 is a copy of the Commission Opinion In the Matter of CERTAIN RECORDABLE COMPACT DISCS AND REWRITABLE COMPACT DISCS, US ITC Inv. No. 337-TA-474, 2004 WL 1435791(2004). This document was publicly available starting in March, 2004.

Exhibit 6 is a copy of the article “Why Apple’s Patent Infringement Payout is Still in Play” authored by Austin Carr. The article can be found at <http://www.fastcompany.com/1693197/why-apple-could-pay-more-than-625m-for-cover-flow-patent-infringement>. This document was publicly available on at least October 5, 2010.

Exhibit 7 is a copy of “IBM and Software Patents”. This article can be found at <http://eupat.ffii.org/gasnu/ibm/#gajn>. This document is publicly available at the aforementioned link.

Exhibit 8 is a copy of a press release “IBM leads U.S. Patent race for seventh consecutive year”. This document is publicly available on IBM’s own website at <http://www-03.ibm.com/press/us/en/pressrelease/1920.wss>, and was publicly available starting January 11, 2000 at http://web.archive.org/web/*/www.ibm.com/news.

Exhibit 9 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20020620100327/http://www.ibm.com/ibm/licensing/patents/practices.shtml>. This page was publicly available starting June 20, 2002.

Exhibit 10 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20021003190636/http://www.ibm.com/ibm/licensing/patents/practices.shtml>. This page was publicly available starting October 3, 2002.

Exhibit 11 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at

<http://web.archive.org/web/20021228150116/http://www.ibm.com/ibm/licensing/patents/practices.s.shtml>. This page was publicly available starting December 28, 2002.

Exhibit 12 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20030508114849/http://www.ibm.com/ibm/licensing/patents/practices.s.shtml>. This page was publicly available starting May 8, 2003.

Exhibit 13 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20030804153157/http://www.ibm.com/ibm/licensing/patents/practices.s.shtml>. This page was publicly available starting August 4, 2003.

Exhibit 14 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20031005132352/http://www.ibm.com/ibm/licensing/patents/practices.s.shtml>. This page was publicly available starting October 5, 2003.

Exhibit 15 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20031207014004/http://www.ibm.com/ibm/licensing/patents/practices.s.shtml>. This page was publicly available starting December 7, 2003.

Exhibit 16 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page was previously produced in the litigation as ACQIS0149192. This page was publicly available on at least February 2, 2004 and at that time, this website page could be found at <http://www.ibm.com/licensing/patents/practices.shtml>.

Exhibit 17 is a copy of the website page entitled “IBM Worldwide Patent Licensing Practices”. This website page can be found at <http://web.archive.org/web/20040404162144/http://www.ibm.com/ibm/licensing/patents/practices.shtml>. This page was publicly available starting April 4, 2004.

Exhibit 18 is a copy of the Forbes article “IBM’s Path From Invention to Income” authored by Lisa DiCarlo. The article can be found at http://www.forbes.com/2003/08/07/cx_id_0807ibm_print.html. This document was publicly available on at least August 7, 2003.

Exhibit 19 is a copy of the cover, copyright page, the Table of Contents and an excerpt from Chapter 4 of “Drafting Technology Patent License Agreements,” including Appendix 4-A (Michael J. Lennon, 2009). This document is publicly available.

Dated: November 15, 2010

Respectfully submitted,

/s/ Wayne Stacy

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this **UNOPPOSED REQUEST FOR JUDICIAL NOTICE** was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by facsimile and/or U.S. First Class Mail on November 15, 2010.

/s/ Wayne Stacy

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